
PENSION NEWS UPDATE (MAY2022)

HMRC GMP equalisation guidance on historical transfers and conversion

1. On 6 April 2022, HMRC published guidance on the tax implications of Guaranteed Minimum Pension (GMP) equalisation following the Lloyds No.3 judgement. The guidance focuses on tax issues arising from correction of historical transfer payments and some of the tax issues arising on GMP conversion.
2. The issue with historical transfers relates to those previously calculated on a basis that did not take account of the adjustments needed to eliminate GMP-related inequalities. Trustees need to take corrective actions by making a transfer top-up payment to the receiving scheme or making a lump sum payment directly to the member. The guidance states that this payment will be an authorised payment where relevant conditions are met.
3. HMRC also provides some guidance on the tax implications for pensioners of GMP conversion and advises that further work is needed for the potential implication of deferred members.

TPR's Annual Funding Statement 2022

4. On 27 April 2022, the Pensions Regulator (TPR) published its latest Annual Funding Statement for trustees and sponsoring employers of occupational DB pension schemes. It is particularly relevant to schemes with valuation dates between 22 September 2021 and 21 September 2022.
5. The statement emphasises the need for trustees remain alert to their scheme's funding position and covenant changing very quickly in the current environment. Trustees should understand key risks and consider how underlying factors such as the Ukraine conflict, inflation, interest rate, higher energy prices and the impact of COVID-19 pandemic impact on the scheme and the employer's covenant in an integrated way.
6. TPR confirmed that the existing legislation and guidance will remain in force until the new legislation and the revised DB code come into force. The second consultation on the draft code is expected to be launched later in 2022, allowing enough time to learn from DWP's consultation on the draft regulations which is expected before the summer.

Stronger Nudge to pensions guidance

7. On 17 January 2022, the DWP published its response, together with final regulations, on proposals to implement a "Stronger Nudge" to pensions guidance. These are to be implemented from 1 June 2022.
8. Under the regulations, schemes are required to deliver a Stronger Nudge to guidance in relation to applications (or communications in relation to applications) to transfer or start receiving "flexible benefits" (broadly DC benefits). The new regulations broadly require trustees and managers to:
 - 8.1. Refer the beneficiary to appropriate Pension Wise guidance and explain its nature and purpose;
 - 8.2. Facilitate a guidance appointment for the beneficiary, including offering to book the appointment and, where that offer is accepted, taking reasonable steps to do so;
 - 8.3. Where the beneficiary does not accept that offer, or where it is not possible to book a suitable appointment for them, the beneficiary must be provided with details of how to book a pensions guidance appointment;

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- 8.4. Explain to the beneficiary that their application cannot proceed unless they have received the guidance and notified the scheme of its receipt, or opted out of doing so; and
- 8.5. Explain to the beneficiary that they can only opt out of receiving the guidance by giving an opt-out notification.
- 9. There are circumstances where the nudge to guidance is not required, including transfers for members under age 50 or if the individual has had certain financial advice/guidance in the last 12 months.